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IN THE UNITED STATES DISTRICT COURT STATE OF UTAH, CENTRAL DIVISION

CYNTHIA STELLA, and the ESTATE OF HEATHER MILLER,	COMPLAINT
Plaintiffs, vs. DAVIS COUNTY, SHERIFF TODD RICHARDSON, MAVIN ANDERSON, JAMES ONDRICEK Defendants.	Case No: Judge:

Plaintiffs' Cynthia Stella and the Estate of Heather Miller, by and through their attorneys, and for their Complaint against Defendants Davis County, Sheriff Todd Richardson, James Ondricek, and Mavin Anderson allege as follows:

JURISDICTION AND VENUE

- 1. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343 over Plaintiffs' cause of action arising under the Constitution of the United States and 42 U.S.C. § 1983 and pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. This Court has supplemental jurisdiction over Plaintiffs' causes of action arising under the Utah state law pursuant to 28 U.S.C. § 1367.
- Venue lies in the United States District Court for the District of Utah because the events and omissions giving rise to Plaintiffs' claims occurred in Davis County, Utah. 28 U.S.C. § 1391(b)(2).
- 3. Defendants are subject to personal jurisdiction within this district.

PARTIES

- 4. Prior to her death, Heather Miller was and at all times pertinent has been a citizen of the United States and a resident of the State of Utah.
- Cynthia Stella, mother of the deceased, is allowed to bring this action on her own behalf, and on behalf of the estate of Heather Miller without opening formal probate. Utah Code Ann. 78B-3-106.5.
- 6. Plaintiffs brings this action on behalf of Cynthia Stella and on behalf of the Estate of Heather Miller.

- 7. Defendant is Davis County (County), a political subdivision of the State of Utah. As part of its corporate powers, and at all times relevant, the County maintained the Davis County Jail.
- 8. Defendant is Todd Richardson (Richardson), in both his official and individual capacity, who as sheriff of Davis County is a principal policy maker for the Davis County Jail.

 Upon information and belief, Richardson is a resident of Davis County, State of Utah.
- 9. Defendant is Mavin Anderson, a nurse employed by Davis County to provide medical services at the Davis County Jail. Anderson is believed to be a resident of Davis County.
- 10. Defendant is James Ondricek, who as medical supervisor at the Davis County Jail is a principal policy maker for the Davis County Jail. Upon information and belief, Ondricek is a resident of Davis County, State of Utah.
- 11. Defendants are persons under the meaning of 42 U.S.C. § 1983 and are located in this judicial district.

GENERAL ALLEGATIONS

- 11. On December 20, 2016, Heather Ashton Miller was booked into the Davis County Jail.
- 12. On December 21, 2016, around 17:56, Ms. Miller was reported to have fallen from the top bunk in her cell, injuring herself severely in the fall.
- 13. Jail staff, including Nurse Marvin Anderson, arrived to assess Ms. Miller.
- 14. Ms. Miller told jail staff that she had hit her head and that her side was in severe pain.

- 15. Ms. Miller also told jail staff she was dizzy and could not walk.
- 16. Nurse Anderson did not check Ms. Miller's vitals at that time, or at any time thereafter until over two hours and forty-four minutes had passed. The only attempt to take vitals after the fall was by EMTS at the veritable moment of transport to the hospital, when it was too late.
- 17. Ms. Miller was being housed on the second floor of the unit at the time of the fall. The Defendants thereafter determined to move her to a cell with an available lower bunk, but this cell was located on a lower, first floor unit.
- 18. Ms. Miller was unable to walk down the stairs to the first floor of the unit due to excruciating pain and debilitation resulting from the fall; instead she scooted down the stairs in a seated position until she reached the bottom of the stairs where she waited for staff to bring a wheelchair and lift her into it.
- 19. Rather than have Ms. Miller brought into the infirmary, Anderson ordered that Ms. Miller be taken into another unit with a lower bunk under no medical observation.
- 20. Although Anderson had the option to order medical checks, to provide medical monitoring, to provide medical observation, and/or to check vital signs, Anderson did nothing. He did not order any medical attention for Ms. Miller.
- 21. Ms. Miller suffered a ruptured spleen as a result of the fall. She had extensive internal bleeding and internal blood loss. This condition would have manifested itself in many

- obvious and almost immediate ways by simply taking vital signs or by providing medical observation.
- 22. Had jail staff monitored Ms. Miller's vitals (blood pressure, pulse, and temperature), they would have discovered obvious symptoms indicating massive internal blood loss and/or made a determination that Ms. Miller was facing a life-threatening injury, including the possibility of a ruptured spleen. Significant decline of critical vital signs would have been notable in as early as 15-30 minutes from the fall, prompting attention medically probable to have saved her life.
- 23. Jail staff failed to diagnose Ms. Miller's internal injuries or take simple vital signs for at least two hours and forty-four minutes when EMTs arrived to transport her; she died inroute to the hospital, but was pronounced dead approximately four hours after her fall.
- 24. Davis County Jail either lacks policies on providing basic medical attention to inmates or fails to train staff on these policies.
- 25. Nurse Anderson claimed he was unaware of any policy regarding what medical attention is required after an inmate has suffered, or is suspected of suffering, an injury. Nurse Anderson claimed he was unaware of any policy regarding what medical attention is required after an inmate has suffered or is suspected of suffering a fall.
- 26. Nurse Anderson admitted he should check vitals for inmates that have suffered falls and should have done so for Ms. Miller.

- 27. Nurse James Ondricek, a (medical) supervisor at Davis County Jail, stated there is no jail policy for falls or any other type of injury that addresses medical issues of any type, including medical care, treatment or supervision.
- 28. Nurse Ondricek's stated inmates fall from the top bunk about once a month, and his expectation would be that even if there were no visible injuries from the fall, medical staff would monitor the fallen inmate, including monitoring vital signs.
- 29. Nurse Ondricek also stated it would be his expectation that an inmate who couldn't walk would be brought to the medical area or provided further observation.
- 30. These policies either do not exist or were not taught to jail staff, as these policies were not followed after Ms. Miller fell from her bunk.

FIRST CAUSE OF ACTION

Deliberate Indifference to Ms. Miller's 8th and/or 14th Amendment Rights-Failure to Provide Proper Medical Care (Cognizable under 42 U.S.C. §1983)

- 32. Plaintiffs adopts by reference all preceding paragraphs.
- 33. Defendants had a duty to provide timely medical treatment for conditions about which they knew or should have known. Defendants knew or should have known about Ms. Miller's medical needs, and with deliberate indifference to such medical needs, Defendant acted or failed to act in such a way to deprive Ms. Miller of necessary and adequate medical care, thus endangering her health and well-being. Such acts and/or

- omissions of Defendants violated rights secured to Ms. Miller under the 8th and/or 14th Amendment of the United States Constitution.
- 34. Defendants breached their duties and were deliberately indifferent to Ms. Miller's medical needs by failing to provide any medical attention to Ms. Miller despite the evidence (her fall from the top bunk, complaints of excruciating pain, indication that she hit her head, and debilitation from her fall including the inability to walk on her own volition) indicated a serious medical condition.
- 35. As a direct and proximate result of Defendants' deliberate indifference, Ms. Miller died while in the custody of Defendants.
- 36. On information and belief, Ms. Miller was caused to endure prolonged pain and suffering leading up to the time of her death, even though her condition could have been diagnosed, treated, and stabilized. Accordingly, Plaintiffs seek compensation in an amount to be determined at trial for the pain and suffering Ms. Miller endured prior to her death, and for the wrongful death of Ms. Miller.
- 37. Further, due to the egregious nature of Defendants' indifference and reckless distraught for the health, safety, and the very life of Ms. Miller, Plaintiffs' seek punitive damages against said Defendants.

SECOND CAUSE OF ACTION

Failure to Train and/or Supervise in Violation of the 8th and 14th Amendments Constitutional Depravation of Constitutional Rights Pursuant to 42 U.S.C. §1983 (Cognizable under 42 U.S.C. §1983)

- 38. Plaintiffs adopts by reference all preceding paragraphs.
- 39. Davis County is considered "persons" under 42 U.S.C. §1983 and thus may be liable for causing a constitutional deprivation.
- 40. Sheriff Richardson may be held liable in damages for constitutional wrongs caused by his failure to adequately train or supervise his subordinates due to his deliberate indifference.
- 41. Defendants foresaw, or should have foreseen, the possibility of inmates suffering severe injuries while in the custody of Davis County Jail. However, Defendant Richardson failed to provide adequate policies, procedures, or training to their employees or contractors to reasonably provide for the safety and health of inmates, including Ms. Miller, with such issues. In this, Defendant was deliberately indifferent to the health and safety of Ms. Miller, which deliberate indifference caused her death.
- 42. In addition to Defendant Richardson, Nurse James Ondricek, as the supervisor of nurses at Davis County Jail, is also responsible for providing adequate policies, procedures, or training to their employees or contractors to reasonably provide for the safety and health of inmates, including Ms. Miller, with such issues. In this, Defendant was deliberately indifferent to the health and safety of Ms. Miller, which deliberate indifference caused her death.

- 43. For example, Davis County was aware that inmates at the Davis County Jail would fall off the top bunk about once a month. These falls could result in significant injuries. One inmate fell off the top bunk and split his ear open. To avoid such injuries, some officers, such as Deputy Lloyd, no longer require inmates to climb off their bunk during standing headcounts.
- 44. However, Defendant Richardson failed to train on or implement a policy regarding the medical care that must be provided when an inmate has suffered a possible significant injury.
- 45. Following the death of Heather Miller, the Utah Attorney General's Office engaged in an investigation into Ms. Miller's death.
- 46. Three nurses were interviewed during the investigation and no nurse was able to identify a governing policy or practice regarding the level of care that Davis County Jail personnel must provide an inmate following an injury. No nurse was able to identify a governing policy or practice regarding the level of care that Davis County Jail personnel must provide an inmate following a fall.
- 47. Defendants, in their official capacities, failed to provide adequate policies, procedures, or training to their employees or contractors in instructing and directing them to adequately monitor and respond to inmates with serious health conditions. In this, Defendants were deliberately indifferent to the health and safety of Ms. Miller, which deliberate indifference caused her death.

48. As a direct and proximate result of Defendants' actions, inactions, and/or deliberate indifference, Ms. Miller was deprived of her rights in violation of the 14th Amendment to the United States Constitution and 42 U.S.C. §1983, i.e., she was deprived of her life without due process of law.

INJUNCTIVE RELIEF

49. The operation of Davis County Jail without any policies insuring inmates receive adequate medical is unconstitutional. Plaintiff requests injunctive relief requiring Davis County to enact, train, and publish policies providing for medical attention that comply with national standards.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs requests this court enter judgment against Defendants, and each of them and provide the following relief:

- a. Compensatory and special damages in whatever amount, exclusive of costs and interest, that Plaintiffs is found to be entitled;
- Punitive/exemplary damages against Defendants in whatever amount, exclusive of costs and interest, that Plaintiffs is found to be entitled;
- c. For interest and costs as allowed by law:
- d. For attorney fees, pursuant to 42 U.S.C. § 1988;
- e. For declaratory and injunctive relief barring Defendants from similar misconduct in the future; and

f. Such other and further relief as the court deems appropriate.

Dated this 3rd day of January, 2018.

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The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

purpose of initiating the civil do	ocket sheet. (SEE INSTRUC	TIONS ON NEXT PAGE OF	тпіз ғо						
I. (a) PLAINTIFFS Estate of Heather Miller, Cynthia Stella				DEFENDANTS Device County Shoriff Todd Dishardeen Mayin Anderson James					
			Davis County, Sheriff Todd Richardson, Mavin Anderson, James Ondricek						
(b) County of Residence of First Listed Plaintiff Davis County (EXCEPT IN U.S. PLAINTIFF CASES)		avis County		County of Residence		_	Davis County	/	
		SES)		(IN U.S. PLAINTIFF CASES ONLY)					
				NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.					
Law Offices of Tad D. Dra	Address, and Telephone Numbe	r)		Attorneys (If Known)					
12339 S. 800 E., Suite 10									
II. BASIS OF JURISDICTION (Place an "X" in One Box Only)			III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintij (For Diversity Cases Only) and One Box for Defendant)						
□ 1 U.S. Government Plaintiff (U.S. Government Not a Party)			PT			, and the second	PTF	DEF	
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☐ 2 U.S. Government Defendant				itizen of Another State					□ 5
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IV. NATURE OF SUIT			I E	Click here for: Nature of Suit Code Descriptions. FORFEITURE/PENALTY BANKRUPTCY OTHER STATUTES					
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VI. CAUSE OF ACTIO	42 USC 1983	tute under which you are	filing (1	Do not cite jurisdictional stat	utes unless di	iversity):			
VI. CAUSE OF ACTION	brief description of ca	use: adequate medical c	are at	iail					
VII. REQUESTED IN COMPLAINT:	II. REQUESTED IN			EMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: X Yes \Box					
VIII. RELATED CASE	E(S) (See instructions):								
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INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- **I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- **II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 - United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 - Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 - Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- **III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit. Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: Nature of Suit Code Descriptions.
- **V. Origin.** Place an "X" in one of the seven boxes.
 - Original Proceedings. (1) Cases which originate in the United States district courts.
 - Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 - Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date. Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - Multidistrict Litigation Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407
 - Multidistrict Litigation Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket. **PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statue.
- VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. Do not cite jurisdictional statutes unless diversity. Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- **VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction. Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases. This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.